

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER**

---

**IN THE MATTER OF:**

**CASEY'S GENERAL STORES,  
INC.**

**LUST No. 9LTM43  
UST No. 199016770**

**ADMINISTRATIVE  
CONSENT ORDER  
NO. 2008-UT-03**

---

**I. SUMMARY**

The Department of Natural Resources (Department) and Casey's General Stores, Inc. (Casey's), enter into this Administrative Consent Order for the purpose of resolving issues as to Casey's regulatory responsibility to complete corrective action in response to a release of petroleum from an underground storage tank (UST) located at 1 Convenience Blvd., S.E., Ankeny, Iowa.

Casey's agrees to implement the free product recovery plan attached as Exhibit A in accordance with terms specified in Division V below.

Any questions related to this order should be directed to the following persons:

**Relating to Technical Requirements**

Verne Schrunk  
Iowa Department of Natural Resources  
Wallace State Office Building  
Des Moines, IA 50319  
1-515-242-6489, 1-515-725-0268

**Relating to legal requirements**

David Wornson  
Attorney  
Wallace State Office Bldg.  
Des Moines, IA 50319  
1-515-242-5817

**II. JURISDICTION**

This order is issued pursuant to Iowa Code sections 455B.474(1)(f)(11) and 455B.476, which authorize the Director to issue any order necessary to secure compliance with the Iowa Code Division IV, Part 8 and Environmental Protection Commission (Commission) rules contained in Chapter 567 IAC 135. Iowa Code section 455B.109 and Commission rules at 567 IAC Chapter 10 authorize the Director to assess administrative penalties up to \$10,000.

**III. STATEMENT OF FACTS**

1. Casey's is the registered owner of 2 petroleum underground storage tanks (USTs) located at 1 SE Convenience Blvd., Ankeny, IA. A 20,000 gallon UST stores and dispenses diesel fuel and a 1,000 gallon UST stores used oil.

Administrative Order  
In Re: Casey's General Stores, Inc.

2. Casey's is the person in control of and having responsibility for the daily operation of the USTs.
3. On January 27, 2006, Casey's reported a petroleum release to the Department which was believed to be associated with the 20,000 gallon diesel UST system. The release was discovered on the adjoining Ankeny airport property when airport employees observed petroleum free product surfacing on their property and traced it back to a drainage ditch between Casey's and the airport property. The fuel was further traced back from the ditch to a culvert on Casey's property. The tank pit contained two observation wells, both containing free product at a thickness of 1.5 feet. The Ankeny Airport was eliminated as a source for the fuel after their aboveground storage tank system was checked for leaks and none were found.
4. Casey's initiated and the Department required an UST and line tightness test on the 20,000 gallon tank. The tank and line tests passed, and the tank system was found to be in compliance. Further investigation determined that a leaking flange gasket on piping was a source of the release.
5. By letter dated February 2, 2006, the Department required Casey's to immediately begin interim free product recovery by hand-bailing or the use of passive skimming equipment. The letter emphasized that the frequency of interim recovery must be based on the recharge rate of the free product. The letter required Casey's to prepare and submit a free product assessment report within 45 days in accordance with Commission rule 567 IAC 135.7(5). The letter cited to this rule and specifically outlined the minimum requirements for preparation of a free product assessment report.
6. A separate letter dated February 2, 2006 required Casey's to conduct a tier 2 site assessment and submit a report within 180 days.
7. Casey's groundwater professional (Seneca) performed immediate response actions, including over excavation, installation of 28 monitoring wells, conducting soil analysis and screening using a mobile laboratory. Casey's also had Seneca collect accessible free product from the drainage ditch, and place booms on the surface water, as well as construct a series of wiers to limit the amount of product transport through the ditch. Casey's also had a vacuum truck respond to the site on several occasions to remove product from the tank pit via the observation wells and the drainage ditch. Seneca submitted what it termed an "initial free product assessment report" dated March 15, 2006 on behalf of Casey's.
8. The Department approved and Casey's installed a free product recovery and interceptor trench in October 2006. The Department and Casey's dispute the specific facts regarding the adequacy of assessment and recovery actions to address free product in the source area. In the interest of

Administrative Order  
In Re: Casey's General Stores, Inc.

settlement, they have agreed to the terms of this consent order to resolve outstanding factual and legal issues.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code chapter 455B, Division IV, Part 8 (sections 455B.471 - 455B.479) establishes the UST program. Section 455B.472 declares that the release of regulated substances, including petroleum products, from USTs constitutes a threat to the public health and safety and to the natural resources of the state, and this regulatory program is necessary to adequately address this concern. Iowa Code section 455B.474 authorizes the Commission to adopt rules related to release detection and prevention, financial responsibility, tank closure, site assessment, risk classification, and corrective action applicable to all owners and operators of USTs. The Commission has adopted such rules at Chapters 567 IAC 135 and 136.

2. Iowa Code section 455B.471(6) defines "owner" of USTs. These tanks came into use after July 1, 1985. Casey's is an owner of USTs as defined and responsible for compliance with the terms of this Order.

3. Iowa Code section 455B.471(5) defines an "operator" as "a person in control of, or having responsibility for, the daily operation of the [UST]." Casey's is an operator as defined and responsible for compliance with the terms of this Order.

4. Iowa Code section 455B.474(1)(f) requires the Commission to adopt rules to establish corrective action response requirements for the release of regulated substances, including petroleum. The Commission has adopted "risk-based corrective action" rules which apply to dissolved phase petroleum chemicals. Iowa Code section 455B.474(1)(f)(3) requires the Commission to adopt rules which at a minimum must require that "...free product be removed or contained on site". The Commission has implemented this grant of rule-making authority by adopting rules specific to the assessment and recovery of free product. See sub-rule 567 IAC 135.7(5).

5. If free product is present, Commission sub-rule 567 IAC 135.7(5) requires owners and operators to immediately begin interim free product recovery by handbailing or the installation of a passive recovery system based on a determination of the recharge rate in recovery wells. Upon discovery, free product assessment must begin and a report must be submitted within forty-five (45) days. A free product assessment must be conducted and a report submitted within forty five (45) days unless an alternative schedule is approved by the Department. Unless approved by the Department, all free product recovery assessment and recovery activities must be performed by a certified groundwater professional.

Administrative Order  
In Re: Casey's General Stores, Inc.

6. Commission sub-rule, paragraph 567 IAC 135.7(5)"b" states that abatement of free product migration is a minimum objective for the design of a recovery system. The free product removal system's primary objective is to remove free product "...to the maximum extent practicable".

7. The free product assessment report must contain, among other things, an estimated quantity, type and thickness of the free product observed or measured; the recharge rate in all affected monitoring wells; a detailed justification for the free product removal technology proposed for the site (taking into account estimated volume, product thickness, extent, cost effectiveness, site hydrology and geology, etc.); free product plume definition and map; the estimated volume of free product present, how the volume was calculated, the recoverable volume, and the estimated recovery time. 567 IAC 135.7(5)"d".

8. The Department's position is that Casey's has failed to adequately assess free product in the source areas and recover free product to the maximum extent practical in accordance with the above statements of law. Casey's disputes that it has violated the meaning and intent of sub-rule 135.7(5) or that sub-rule 135.7(5) is the controlling rule or law dealing with the free product removal on the Casey's site. Further, Casey's believes that in the event sub-rule 135.7(5) is controlling, that its free product recovery activities satisfy the requirements of sub-rule 135.7(5) by being to the maximum extent practical and has satisfied other pertinent statutes or commission rules governing with the free produce removal on the Casey's property. In the interest of settlement, the Department and Casey's have met and jointly prepared an additional free product recovery plan.

**V. ORDER**

THEREFORE, the Department and Casey's have agreed to the following terms:

1. Casey's shall implement the terms of the attached free product recovery plan (Exhibit A) and the free product assessment report dated April 8, 2008 which the Department has approved by letter dated June 20, 2008.

2. Casey's shall continue to recover free product under the attached plan until less than 0.1 gallons per month of product is being recovered, or until thicknesses observed in monitoring wells declines to below 0.02 feet for a time period of 12 months.

**VI. PENALTY**

1. Iowa Code section 455B.477 authorizes the assessment of civil penalties in Iowa District Court of up to \$5,000 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

Administrative Order  
In Re: Casey's General Stores, Inc.

2. Iowa Code sections 455B.476 and 455B.109 authorize the Environmental Protection Commission to establish by rule a schedule of civil penalties up to \$10,000 which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties. See 567 IAC 10. Pursuant to this rule, the Department has determined that a penalty is not warranted in this case.

**VII. WAIVER OF APPEAL RIGHTS**

Iowa Code section 455B.476, and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Environmental Protection Commission. This Order is entered into knowingly by and with the consent of Casey's. By signing this Order all rights to appeal this Order are waived.

**VIII. NONCOMPLIANCE**

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the alleged violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.477.

  
CASEY'S GENERAL STORES, INC.

By: Terry W. Handley, Vice President  
Authorized Representative

Dated this 5 day of June, 2008

  
RICHARD A. LEOPOLD, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 26 day of June, 2008

LUST No. 9LTM43, FO 5, V. Schunk, David Wornson, V.D.

April 15, 2008

**RE: EXHIBIT A**  
**Free Product Recovery Summary – Phase II**  
**Casey's General Store Headquarters - #90**  
**One Convenience Blvd**  
**Ankeny, IA**  
**UST No. 8601088 LUST No. 9LTM43**

It is the opinion of **BARKER LEMAR** and Casey's that the free product recovery mechanism summarized below satisfies the requirements as stated in 567 IAC 135.7(5)"b", as free product recovery to the maximum extent practical for the site. The free product recovery mechanism proposed in the Free Product Assessment Report dated April 2008, is sufficient to recover free product at a frequency determined by the recharge rate of the product and in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state and federal regulations, as per 567 IAC 135.7(5)"a".

In addition, following the additional plume definition activities proposed in the Free Product Assessment Report dated April 2008, report by **BARKER LEMAR**, the boundary of the plume will be adequately determined by linear interpolation consistent with the methods described in 135.10(2)"f"(3).

Upon IDNR review and acceptance of this report, the proposed free product recovery plan will be implemented. As per IAC 135.7(5)"f", Casey's will propose to the IDNR to terminate free product recovery activities when significant amounts of hydrocarbons (equal to or less than 0.1 gallon each month) are not being recovered. When free product activities have been terminated, Casey's will inspect the monitoring, observation and recovery wells monthly for at least a year. The IDNR will be notified and free product recovery activities reinitiated if during the monthly well inspections it is determined the product thickness in the wells exceeds 0.02 foot.

## **1.0 INTRODUCTION**

The additional free product recovery requirements as discussed during the February 7, 2008 meeting between Casey's, IDNR and **BARKER LEMAR**, consist of two (2) additional recovery wells equipped with passive skimmers as recommended in the December 2007 Free Product Assessment Report, four (4) additional observation wells, and used of adsorbent socks in wells with measurable free product. All newly constructed wells at the site will be 2-inch diameter. The locations of the additional wells to be installed at the site are shown on the Site Map presented as Figure 1 to this summary.

## **2.0 FREE PRODUCT RECOVERY SCOPE – PHASE II**

### **Well Installation and Recovery Equipment Installation**

1. Drill and install two (2) recovery wells in the vicinity of monitoring well MW-25 as shown on Figure 1. The wells will be constructed with 2-inch PVC and will be screened 5 feet above the existing groundwater table depth.
2. Install one (1) passive skimmer with floating intake in each of the two (2) newly constructed recovery wells west and south of MW-25. The passive skimmers used in the wells will be Keck PRC 2" Skimmer. The Keck PRC 2" is equipped with a hydrophobic filter buoy that is capable of continuously collecting free product. The skimmer will be equipped with a 1-liter (0.26 gallon) recovery canister which will be drained via a release drain valve.
3. Drill and install four (4) observation wells at locations as shown on Figure 1. The wells will be constructed with 2-inch PVC and will be screened at least 5 feet above the existing groundwater table depth.
4. Install SoakEase® absorbent socks in existing wells with measurable free product thickness. Based on the January 2008, free product check the eight (8) monitoring wells to be equipped with hydrophobic socks will be MW-4, MW-6, MW-8, MW-15, MW-17, MW-20, MW-24 and MW-25. In addition, the four (4) newly constructed observation wells will also be equipped with hydrophobic socks if free product is observed in the wells following construction.

**RECHARGE ANALYSIS FOR NEWLY INSTALLED WELLS**

1. Check product thickness and determine recharge rates for the two (2) recovery wells and four (4) observation wells discussed above. The recharge rates will be applied to determine a specific site recovery rate for the distinct plume areas.
2. Complete and submit an addendum to the Free Product Recovery Assessment Report to include updated expected recovery volumes and time for recovery.

**PREPARATION OF CASEY'S FREE PRODUCT MANAGEMENT PLAN AND PERSONNEL TRAINING**

1. Prepare a Free Product Management Plan for Casey's Personnel which will include documentation of procedures for daily checking of the passive skimmers and the frequency of the checks. It is anticipated that the skimmers will be checked five times per day during the initial check. A recommendation with justification for changed frequency of checks will be made to the IDNR based on free product amounts recovered during the recovery observations.

**MONTHLY CHECKS AND FREE PRODUCT RECOVERY REPORTING**

1. Complete monthly checks of the twenty-eight (28) existing monitoring wells, two (2) sniffer wells, three (3) existing recovery wells, two (2) additional recovery wells and four (4) additional observation wells onsite.
2. Prepare and submit monthly Free Product Removal Reports to the IDNR on DNR Forms 542-1424 and 542-1425. The reports will include the measured thickness of free product in wells with measurable product as well as monthly summary of free product and groundwater volumes recovered at the site.

**3.0 SCHEDULE**

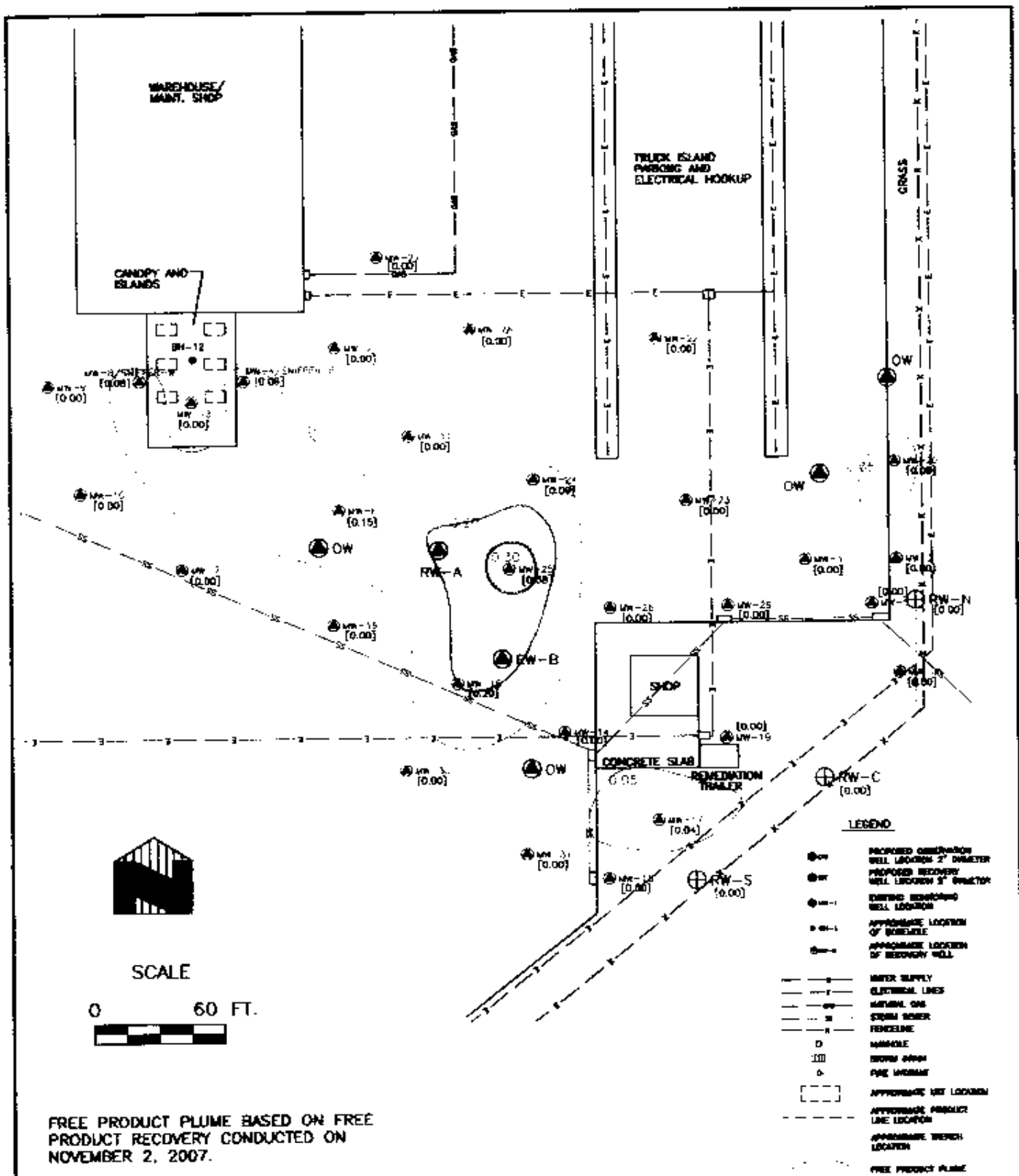
1. Preparation of Casey's Free Product Management Plan: 2 weeks following notice to proceed (NTP).
2. Well Installation and Recovery Equipment Installation: 4 weeks following NTP
3. Recharge Analysis and Assessment Report Addendum: 6 weeks following NTP
4. Free Product Recovery and System Check: Monthly Basis.



5. Request for Free Product Recovery Cessation: Following  $<0.1$  gallons recovered for 6 months, begin post recovery monitoring.
6. Request for Termination of Activities: Following 1 year of  $<0.02$  feet observed thickness.

#### **4.0 CONCLUSION**

Upon IDNR review and acceptance of this report, the proposed free product recovery plan will be implemented. As per IAC 135.7(5)"I", Casey's will propose to the IDNR to terminate free product recovery activities when significant amounts of hydrocarbons (equal to or less than 0.1 gallon each month) are not being recovered. When free product activities have been terminated, Casey's will inspect the monitoring, recovery and observation wells monthly for at least a year. The IDNR will be notified and free product recovery activities reinitiated if during the monthly well inspections it is determined the product thickness in a well exceeds 0.02 foot.



PROPOSED WELL LOCATION MAP  
CASEY'S STORE #90  
ANKENY, IA  
PROJECT NO. CASYS 06003  
DRAWING DATE: FEBRUARY 2008

**BARKERLEMAR**  
ENGINEERING CONSULTANTS  
1801 Industrial Circle - West Des Moines, Iowa - 50265  
Phone: 515.256.8814 - Fax: 515.256.0152 - www.barkerlemar.com

FIGURE  
1